

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

July 7, 2003

CALL TO PODIUM:

Kirk Eby, GIS Planner

RESPONSIBLE STAFF:

Kirk Eby, GIS Planner

AGENDA ITEM:

(please check one)

| | |
|---|------------------------------|
| | Presentation |
| | Proclamation/Certificate |
| | Appointment |
| | Public Hearing |
| | Historic District |
| | Consent Item |
| | Ordinance |
| X | Resolution |
| | Policy Discussion |
| | Work Session Discussion Item |
| | Other: |

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

| | |
|-------------------|-----------|
| Introduced | |
| Advertised | 2/14/2003 |
| | 2/19/2003 |
| | 2/21/2003 |
| | |
| | |
| Hearing Held | 3/3/2003 |
| Record Held Open | 3/12/2003 |
| Policy Discussion | 3/17/2003 |

TITLE: CSP-03-001

Adoption of resolution for approval of CSP-03-001, concept plan for reuse of a property located at 611 South Frederick Avenue, also known as Macroland. The property is located in the CD (corridor development) Zone

SUPPORTING BACKGROUND:

The property was originally approved for a warehouse use on February 17, 1993 by the Planning Commission's approval of site plan S-935. The approval included 6,500 sq. ft. of office on the upper floor and 5,500 sq. ft. of storage on the lower floor.

The concept plan proposes to change the use of the upper floor of the building from *office* to *retail and office* and change the lower floor of the building from *storage* to *warehouse*, which will require a total of 33 parking spaces, as outlined by the shared-parking requirements of Section 24-219(c) of the City Code. There are currently 23 parking spaces on-site and there will be a total of 27 parking spaces after the parking lot is expanded into the area permitted by annexation X-176. The applicant is asking for a waiver of six (6) parking spaces in conjunction with the change of use.

During the public hearing on March 3, 2003, the Mayor and City Council expressed concern with the new parking area's impact on the stream valley buffer and floodplain of the adjacent stream. This application was delayed pending the submission of a Storm Water Management Plan, revised Natural Resource Inventory and Forest Conservation Plan, and revised Site Plan to illustrate the expanded parking area's impact on the stream valley buffer and floodplain. The revised plans show that there will be **no** disturbance within the stream valley buffer or floodplain. Copies of these revised plans are attached for your reference.

The CD zone process for approval stipulates that the Mayor and City Council may either approve the concept plan as submitted and refer it to the Planning Commission for final approval, or require a schematic development plan (SDP) review. Due to the minor change of use proposed by this plan, it is Staff's opinion that this concept plan does not require an SDP and can move forward to the Planning Commission as an Amendment to Final Plan application. Should the Mayor and City Council wish to grant approval of the concept plan, Staff has prepared a draft resolution.

Attached:

Exhibit 6: Draft resolution
Exhibit 7: Revised Site Plan
Exhibit 8: Revised NRI/FCP

DESIRED OUTCOME:

Adopt Resolution Approving Concept Plan CSP-03-001.

RESOLUTION NO. _____

**RESOLUTION OF THE MAYOR AND COUNCIL OF GAITHERSBURG
GRANTING CONDITIONAL APPROVAL OF CONCEPTUAL PLAN
CSP-03-001 FOR COMMERCIAL/RETAIL SALES AND/OR
GENERAL OFFICE USE LOCATED IN THE CD ZONE AT
611 SOUTH FREDERICK AVENUE, GAITHERSBURG, MARYLAND.**

CSP-03-001

OPINION

This proceeding constitutes an action pursuant to §24-160G.6 of the Zoning Ordinance (Chapter 24 of the Gaithersburg Code) which permits the Mayor and City Council to review and approve a concept development plan in the CD (Corridor Development) Zone; and further, Sec. §24-160G.7 in which the Mayor and City Council can approve a concept development plan only after certain findings have been made.

The subject property is located at 611 South Frederick Avenue, Gaithersburg, Maryland, in the CD (Corridor Development) Zone.

Operative Facts

The site contains a 12,000 square foot two-story structure, which is located near the center of the site. The site has a right-in, right-out access point from northbound Maryland Route 355, also known as South Frederick Avenue. The previous use of the property was for general office use on the upper floor (6,500 sq ft) and storage on the lower floor (5,500 sq ft). The property is shown as 'Lot 1 Rashidian Estates' on Montgomery County Plat 19341, containing 24,024 square feet of land. The property is zoned Corridor Development (CD) and is located in the Southern Residential District of the Frederick Avenue Corridor Master Plan. The property was annexed on August 16, 1999 in Annexation Application X-176. The property is surrounded by commercial uses to the north, south, and west, and vacant land and stream valley to the east.

Shahin Batmanglich of Tanz Architects ("applicant") submitted a change of use application to the Planning Commission on January 2, 2003. Staff reviewed the application and informed the applicant that the property is zoned Corridor Development (CD) and would require a concept site plan approval from the Mayor and City Council, per section 24-160G. The applicant submitted a concept plan on January 23, 2003, which requests to change the current use from office and storage to retail, office, and warehouse. Staff informed the applicant that this change of use will increase the parking requirements and requested that the applicant submit a revised site plan incorporating an expanded parking area, as outlined in the annexation agreement for X-176. Staff also requested submission of a Natural Resources Inventory (NRI), Forest Conservation Plan (FCP), and Conceptual Storm Water Management plan (CSWMP), but has received only the NRI thus far.

A public hearing was held for concept site plan CSP-03-001 on Monday, March 3, 2003 before the Mayor and City Council. The hearing had been advertised in the *Montgomery Journal* on February 14 and 21, 2003, the required parties given notice, and the property posted per Section 24-196 of the City Code.

Shahin Batmanglich, Applicant, Tanz Architects, stated that the project proposes to change the use of the upper floor of the building from office to retail and office and change the lower floor of the building from storage to warehouse. He mentioned that a parking waiver would be required, with the exact number to be determined at final site plan review.

The Mayor and City Council reviewed the conceptual plan submitted by the applicant and asked for more information regarding environmental impacts. The applicant had not submitted a Natural Resources Inventory (NRI) at that time and Staff was unable to adequately comment on the environmental impacts of the project. There were no speakers from the public at the hearing. The Mayor and City Council closed the record as of March 12, 2003 and scheduled a policy discussion on March 17, 2003.

The Mayor and Council held a policy discussion on March 17, 2003. GIS Planner Eby discussed the project's impact on the adjacent wetlands and stream valley buffer, based on the submitted concept plan and City GIS data and aerial photographs. He noted that the plan does not appear to encroach into the Stream Valley Buffer, floodplain, or wetlands, but stated that the Natural Resources Inventory still had not been submitted. The Mayor and City Council directed staff to draft a resolution for approval of the concept plan.

Relevant Statutory Provisions

The following statutory provisions from the City Zoning Ordinance (Chapter 24 of the City Code) are among the provisions that define the nature of the City Council's review powers for applications in the CD Zone and the extent of the City Council's oversight.

Sec. 24-160G.6. Procedure for application and approval.

* * *

Procedure governing an application for the CD Zone and approvals necessary to seek building permits shall be subject to the following process:

- (c) *Applications for concept plan approval or schematic development plan approval only.* Applicants seeking to develop, redevelop or improve property zoned CD without an approved schematic development plan shall file for approval of either a concept plan or a schematic development plan pursuant to the procedures hereinafter provided.

- (1) *Concept plan approval only.*

- (a) An applicant shall file together with the prescribed application fee

a concept plan, scaled at one-inch equals fifty (50) feet, and shall contain the information and items described in the concept plan checklist established by the City Manager or his/her designee.

(b) The concept plan shall be subject to the same public hearing notification procedures as required for local map amendments.

(c) The City Council shall conduct a public hearing and either approve the concept plan, with or without conditions or require the applicant to file a schematic development plan pursuant to Section 24-160G.5(b) of this chapter.

(d) Should the City Council approve the concept plan the applicant shall thereafter submit an application for final site plan approval directly to the City Planning Commission.

(e) The City Council decision shall be in the form of a written opinion and resolution.

Sec. 24-160G.7. Findings required.

(b) The City Council may approve a schematic development plan or concept plan only upon the finding that:

- (1) The plan is substantially in accordance with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the City Council for the applicable corridor area.
- (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and
- (3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and
- (4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and
- (5) The existing or planned public facilities are adequate to service the proposed development contained in the plan; and
- (6) The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and
- (7) The plan, if approved, would be in the public interest.

- (8) The existing buildings with historic significance are considered for preservation and retention pursuant to the City's Historic Preservation Ordinance.

Evaluation of Arguments, Evidence, and Findings

The City Council reviewed the evidence of record in this case, which included the application, concept plan, natural resources inventory, forest conservation plan, staff report, related excerpts from the Frederick Avenue Corridor Plan, and public hearing testimony.

The City Council has reviewed Conceptual Plan CSP-03-001 per Section 24-160G.7 to determine whether or not the proposed change of use is permissible. The City Council finds that:

1. The plan is substantially in accordance with the requirements and guidelines of the Frederick Avenue Corridor Master Plan. The proposed use is compatible with the proposed uses in the Southern Residential District of the Frederick Avenue Corridor, including neighborhood retail uses; and
2. The plan meets and accomplishes the purposes, objectives and minimum standards and requirement of the zone. The CD Zone encourages renovation of declining or underutilized properties along the corridor. The property contains a partially vacant building and the proposed plan will allow for commercial/retail sales and/or general office uses to further enable the building to be occupied; and
3. The plan will be internally and externally compatible and harmonious with the existing land uses in the CD-zoned area and adjacent areas in terms of nature and density of use. The master plan recommends commercial-office uses and the property currently abuts residential, open space, and commercial and office uses; and
4. The property will provide for one access point to northbound Maryland Route 355 and parking to the front and rear of the site. In view of the modest change in use proposed, without any additional building square footage, the existing or planned public facilities are adequate to service the proposed development contained in the plan; and
5. As shown on the submitted Natural Resources Inventory (NRI), the proposed plan will not disturb the stream valley buffer or adjacent floodplain; and
6. The plan is in the public interest due to the fact that it will allow a reuse of a property that is currently partially vacant.

Conclusion

Upon consideration of all the evidence pertaining to Concept Plan CSP-03-001, the City Council concludes that the applicant meets the requirements of the CD Zone and the Frederick Avenue Corridor Plan.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on the 7th day of July, 2003, that the Concept Plan CSP-03-001 is hereby approved pursuant to Section 24-160G subject to the following conditions:

1. No disturbance will be allowed in the stream valley buffer, wetlands, or floodplain.
2. The final Forest Conservation Plan (FCP) must be approved by Staff prior to the Planning Commission's review of the final site plan.
3. The landscape plan must be revised to be consistent with the approved Forest Conservation Plan and must be approved by Staff.
4. Stormwater Management (SWM) for the site must be provided in accordance with the most recent MDE SWM Design Manual. The City of Gaithersburg Department of Public Works, Parks Maintenance, and Engineering (PWPME) must approve the location of SWM facilities, if required. All required stormwater management facilities must be complete and operational prior to the issuance of final occupancy permits.
5. Applicant must provide frontage improvements as recommended in the CD Zone and the Frederick Avenue Corridor Plan, to be approved by The Planning Commission and Staff.
6. A record plat must be submitted for review and approval by the City Planning Commission and must be recorded in the land records of Montgomery County prior to the issuance of occupancy permits. The plat shall include ingress/egress easements for the adjacent properties, to become valid at such time as a reciprocal easement is provided by the adjacent owners.
7. All commercial vehicles and employee vehicles shall be parked in the rear parking lot. The front parking lot along Frederick Avenue shall be reserved for customers of the retail and office uses on the upper level. The parking areas shall be signed so as to encourage this parking arrangement.

8. The display or storage of any material or merchandise outside the building and/or in any yard is prohibited.
9. Final signage must comply with the Frederick Avenue Corridor sign guidelines and shall be reviewed and approved by the Planning Commission and Staff.
10. No further changes of use for this property will be granted until such time as additional parking is available for this building.

ADOPTED, by the City Council of the City of Gaithersburg, on the 7th day of July, 2003.

Sidney A. Katz, Mayor
President, City Council

THIS IS TO CERTIFY that the foregoing resolution was adopted by the City of Gaithersburg City Council in a public meeting assembled on the 7th day of July, 2003.

David B. Humpton
City Manager

MARYLAND ROUTE 355
FREDRICK AVENUE

FREDRICK AVE. CORRIDOR IMPROVEMENTS
AS PART OF FUTURE PARKING EXPANSION IN REAR OF
THIS PROPERTY.

FORREST L. MAGRUDER
LUCILLE W. MAGRUDER
L.3388 F 351
P115 ZONED CB

RASHIDIAN ESTATES
LOT 1
COUNTY PLAT 19341

EXISTING BUILDING
FFE=478.0
BSMT= 460.0

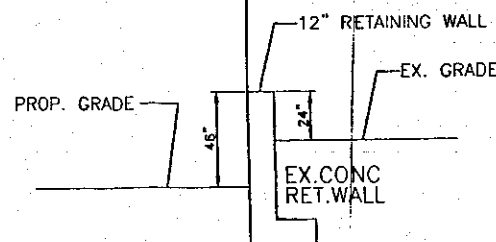
STERLING CONSTRUCTION CORP
L.3271 F 226
N 171 ZONED C-2

SITE PLAN

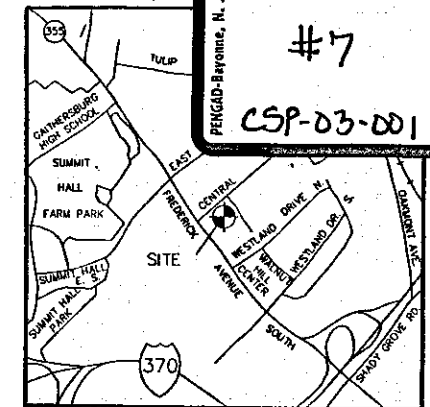
1"= 20'

IMPROVEMENT LEGEND

- NEW ASPHALT PAVEMENT
- CONCRETE DUMPSTER PAD



SECTION C-C
EX.CONC. RETAINING WALL
(N.T.S.)



VICINITY MAP
1/8\"/>

NOTES :

- THE PROPERTY DELINEATED HEREON IS LOCATED ON LOT 1 RASHIDIAN ESTATES COUNTY PLAT 19341 AND IS ZONED CD HIGHWAY COMMERCIAL.
- AREA TABULATIONS
TOTAL SITE AREA = 24,038 SQ. FT.
- EXISTING USE : 1st FLOOR - OFFICE -6,500 SQ. FT.
BASEMENT -STORAGE -5,500 SQ. FT.
PROPOSED USE : 1st FLOOR - OFFICE -3,026 SQ. FT.
- RETAIL -3,474 SQ. FT.
BASEMENT -WAREHOUSE -5,500 SQ. FT.
- THE EXISTING BUILDING WAS CONSTRUCTED IN 1994 AND WILL BE RETAINED.
1. MAXIMUM BUILDING HEIGHT 20 FEET
- THERE IS NO REQUIREMENT FOR TRANSITIONAL SCREENING FOR THIS USE.
- PARKING TABULATION :
EXISTING PARKING : 22 SPACES
1 HANDICAP SPACE
23 TOTAL SPACES
REQUIRED PARKING:
1st FLOOR OFFICE
OFFICE 1 SP/300 SF. x3026 SQ. FT. = 10 SPACES
RETAIL 1 SP/180 SF. x3474 SQ. FT. = 20 SPACES
BASEMENT -
WAREHOUSE 1 SP/500 SF. x5500 SQ. FT. = 11 SPACES
TOTAL PARKING REQUIRED (100%) = 41 SPACES
TOTAL PARKING REQUIRED (SHARED USE) = 33 SPACES
PROVIDED PARKING = 27 SPACES
REQUEST WAIVER = 6 SPACES
- GROSS FLOOR AREA : 12,000 SQUARE FEET
- TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS AND IS BASED ON AN AIR SURVEY.
- THERE ARE NO FLOOD PLAINS, RESOURCE PROTECTION AREAS, OR ENVIRONMENTAL QUALITY CORRIDORS LOCATED ON THIS SITE.
- THERE ARE NO VISIBLE GRAVESITES OR BURIAL GROUNDS LOCATED ON THIS PROPERTY.
- ALL IMPROVEMENTS SHOWN HEREON ARE EXISTING UNLESS DENOTED AS PROPOSED.

SHARED PARKING TABLE

| | | 100% | Weekday | | Weekend | | Midnight |
|-------------|--------------------------------------|------|----------------------|----------------------------|----------------------|----------------------------|----------|
| | | | Day 8 a.m.-5 p.m. | Evening 5 p.m.-Midnight | Day 8 a.m.-5 p.m. | Evening 5 p.m.-Midnight | |
| UPPER LEVEL | Office 3026 S.F. 1SP/300 SF. | 10 | 100% | 10% | 10% | 5% | 0 |
| | Retail 3474 S.F. 1SP/180 SF. | 20 | 80% | 90% | 100% | 70% | 0 |
| LOWER LEVEL | Warehouse 5500S.F. 1SP/500 SF. | 11 | 100% | 10% | 10% | 5% | 0 |
| | TOTAL | 41 | 33 | 20 | 22 | 16 | 0 |

FOREST CONSERVATION WORKSHEET
MACROLAND

NET TRACT AREA:

| | |
|--|------|
| A. Total tract area | 0.49 |
| B. Land dedication areas (parks, county facility, etc.) | 0.00 |
| C. Land dedication for roads or utilities (not being constructed by this plan) | 0.00 |
| D. Area to remain in commercial agricultural production/uses | 0.00 |
| E. Other deductions (specify) | 0.00 |
| F. Net Tract Area | 0.49 |

LAND USE CATEGORY: (from Trees Technical Manual)
Input the number "1" under the appropriate land use.
Write only one entry.

| AREA | MOD | IDA | HDR | MPD | CIA |
|------|------|------|------|------|------|
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1.00 |

G. Afforestation Threshold
H. Conservation Threshold

EXISTING FOREST COVER:

| | |
|---|------|
| I. Existing forest cover | 0.13 |
| J. Area of forest above afforestation threshold | 0.07 |
| K. Area of forest above conservation threshold | 0.07 |

BREAK EVEN POINT:

| | |
|--|------|
| L. Forest retention above threshold with no mitigation | 0.07 |
| M. Clearing permitted without mitigation | 0.06 |

PROPOSED FOREST CLEARING:

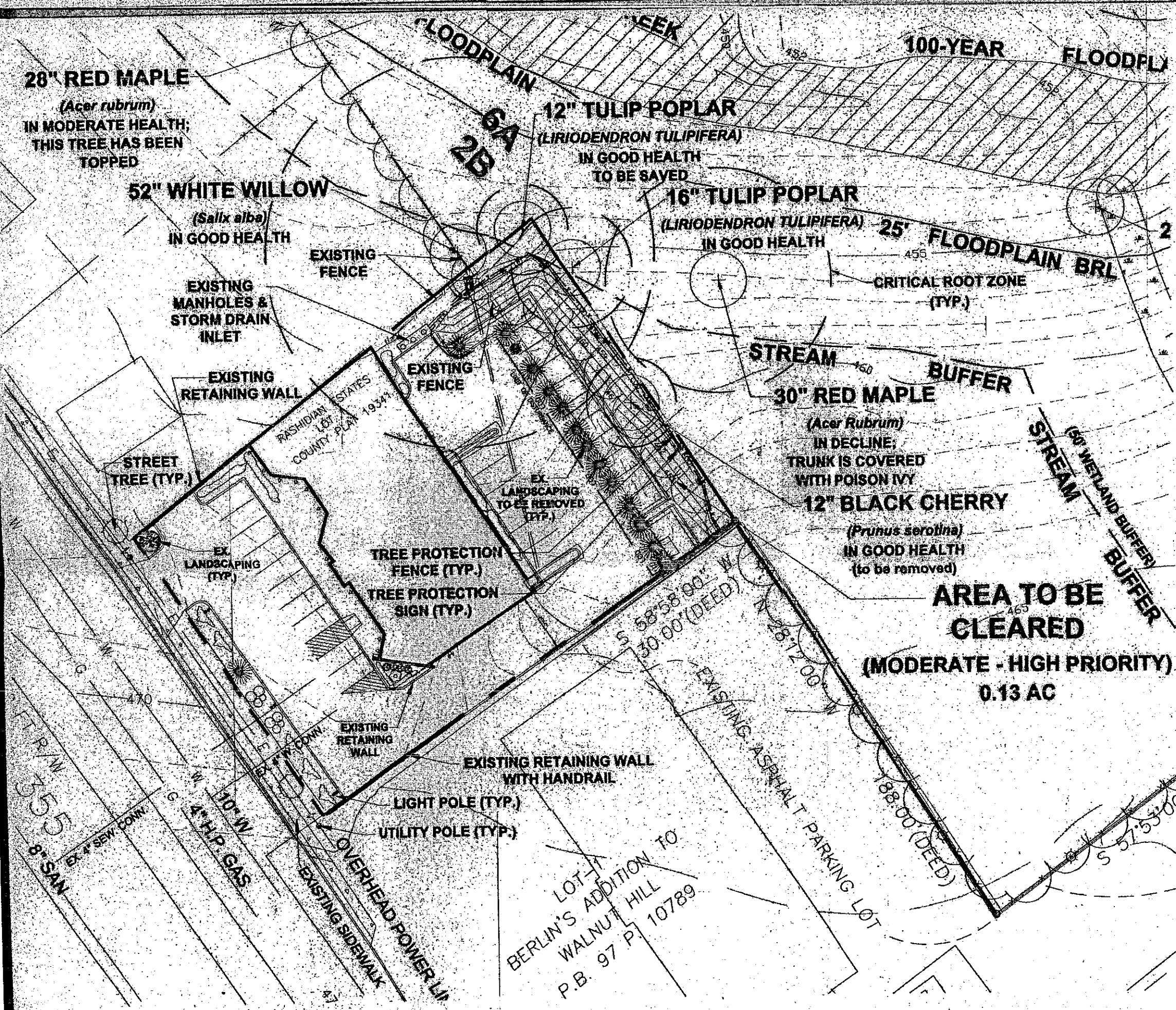
| | |
|--|------|
| N. Total area of forest to be cleared | 0.13 |
| Q. Total area of forest to be retained | 0.00 |

PLANTING REQUIREMENTS:

| | |
|--|------|
| P. Reforestation for clearing above conservation threshold | 0.02 |
| Q. Reforestation for clearing below conservation threshold | 0.12 |
| R. Credit for retention above conservation threshold | 0.00 |
| S. Total reforestation required | 0.14 |
| T. Total afforestation required | 0.00 |
| U. Credit for landscaping (may not exceed 20% of "S") | 0.00 |
| V. Total reforestation and afforestation required | 0.14 |

LEGEND:

- CRITICAL ROOT ZONE
- FOREST CONSERVATION FENCE
- FOREST CONSERVATION SIGN
- FOREST SAMPLE POINT
- LIMITS OF DISTURBANCE
- SOIL DIVIDE
- SPECIMEN TREE
- STREAM BUFFER
- SLOPES ≥ 15%
- SUPER SILT FENCE
- WETLANDS



AREA TO BE CLEARED
(MODERATE - HIGH PRIORITY)
0.13 AC